U.S. Department
of Transportation

**Federal Aviation
Administration**

Federal Aviation Regulations

Part 137
Agricultural Aircraft Operations

This edition replaces the existing loose-leaf Part 137 and its changes.

This FAA publication of the basic Part 137, effective July 6, 1964, incorporates Amendments 137-1 through 137-14 with preambles.

Published
September 1992

Adoption of Part 137

Adopted: June 17, 1965 **Effective: January 1, 1966**

(Published in 30 F.R. 8104, June 24, 1965)

This amendment adds a new Part 137 "Agricultural Aircraft Operations" to the Federal Aviation Regulations.

This amendment was originally proposed as a notice of proposed rule making issued as Draft Release No. 62-47 and published in the Federal Register on November 7, 1962 (27 F.R. 10848). As a result of the comments received, the proposal was modified and republished in the Federal Register, September 10, 1964, with a Notice of Public Hearing (29 F.R. 12781). The new Part basically follows the modified proposal contained in that Notice of Public Hearing.

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A large number of comments objected to the establishment of Agricultural Aircraft Operator certificates and rules. These comments were based mostly upon the assumption that: (1) the regulations are unnecessary and discriminatory with respect to the aerial applicators since similar controls are not placed upon ground applicators, (2) agricultural aircraft operations are now adequately controlled by the States, (3) the Agency does not have the statutory authority to require an operating certificate of the type proposed in these regulations.

The legal authority of the Agency was discussed in the original proposal (Draft Release No. 62-47) and at the public hearing conducted by the Agency. Section 307(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c)) authorizes and directs the Administrator to prescribe, among other things, regulations for the protection of persons and property on the ground. The legislative history of this provision, which did not appear in the previous provisions of the Civil Aeronautics Act of 1938, indicates the intent of the Congress to authorize the Administrator to place restrictions upon aircraft engaged in crop dusting and spraying as are necessary for the protection of persons and property on the ground. In addition, section 607 of the Act (49 U.S.C. 1427) provides ample authority for the Administrator to issue certificates not only for flight schools but for other air agencies, such as agricultural aircraft operators, as may be necessary in the interest of the public.

As stated at the public hearing, the Agency is not persuaded that the existence of some local laws relieves the Administrator of his statutory duty to prescribe adequate and uniform regulations not only for the safety of flight, but for the protection of persons and property on the ground. To perform this duty properly, we have concluded that this new Part 137 is necessary. The use of a certificate of waiver for agricultural aircraft operations has not been entirely satisfactory. By nature it is a negative approach as it authorizes nonobservance of air traffic rules without any control over the dispensing of the economic poisons from the aircraft. At the hearing concerning the buildup of pesticides in certain areas of this country, conducted by the Subcommittee on Reorganization and International Organizations of the U.S. Senate Government Operations Committee, in April of 1964, the need for regulations controlling the dispensing of economic poisons was brought to the attention of the Agency.

Whether similar controls should be adopted for operators of ground equipment used in the dispensing of agricultural chemicals is not, of course, a matter for decision by this Agency. However, to the extent that the dispensing of agricultural chemicals involves the use of aircraft, it is the responsibility of this Agency to decide whether additional controls are necessary for safety of the aircraft in flight and for the protection of persons and property on the ground.

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Amendment 137–2

Dispensing of Economic Poisons for Experimental Purposes

Adopted: April 30, 1966 **Effective: May 5, 1966**

(Published in 31 F.R. 6686, May 5, 1966)

The purpose of this amendment is to except from the prohibitions of section 137.39, the dispensing of economic poisons for experimental purposes,

Section 137.39, prohibits the dispensing from an aircraft of economic poisons registered with the U.S. Department of Agriculture for a use other than that for which it is registered, contrary to the safety instructions or use limitations on its label, or in violation of any law or regulation of the United States.

The Agency has been advised that there is considerable interest in research to develop low volume aerial application methods for control of a number of pests. This research may lead to substantial improvements in pest control by reducing the amounts of pesticides required for the effective control and the cost of the applications, The most promising chemicals for this purpose have been registered by the Department of Agriculture, However, under section 137.39 these chemicals cannot be experimentally evaluated using low volume aerial applications on commodities or pests other than those for which registration has been granted for the low volume application.

Upon consideration of the need for the research and development of efficient and economical chemicals for use by agricultural aircraft operators, the Agency finds that it would be in the public interest to amend section 137.39 to permit the experimental aerial dispensing of an economic poison for a use other than that for which it is registered, or contrary to the use limitations on its label. However, in order to maintain control over such experimentation, the Agency has decided that the experimentation may be conducted only by those agricultural aircraft operators dispensing the economic poison under (1) the supervision of a Federal or State agency authorized to conduct research in the field of economic poisons, or (2) a permit from the U.S. Department of Agriculture to dispense economic poisons for experimental purposes. The Department of Agriculture concurs in these amendments.

Since immediate relief from the present restrictions or section 137.39 is needed in order to permit interested persons to develop research plans for the summer season, I find that compliance with the notice and procedure requirements of the Administrative Procedure Act is impractical,

In consideration of the foregoing, § 137.39 of the Federal Aviation Regulations is amended effective May 5, 1966.

This amendment is made under the authority of sections 313(a), 307(c), 601, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1348, 1421, 1427).

Amendment 137–3

Miscellaneous Amendments

Adopted: June 26, 1968 **Effective: August 1, 1968**

(Published in 33 F.R. 9600, July 2, 1968)

The purpose of this amendment to Part 137 of the Federal Aviation Regulations is to modify the definition of agricultural aircraft operation; to relax the requirement regarding carriage in the aircraft of airworthiness and registration certificates; to change the title of § 137.37 to reflect the proper meaning of that section; and to restrict operations over noncongested areas to the actual dispensing operation,

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the use of the aircraft, by any person, in the hazardous business of smuggling. Furthermore, for the same reasons that support actions against airman certificates, the risk-taking willingness of the corporate or individual management of the holders of those operating certificates would clearly negate their ability to adhere to the conditions necessary for safety in air commerce or air transportation. The FAA considers this to be true, regardless of whether that risk-taking occurs by the certificate holder leasing the aircraft to other persons who smuggle the illegal items or by their operating the aircraft themselves in that business.

In addition to the foregoing, the justification for these amendments encompasses the equally important public interest factors that are directly opposed to the continued use of airman and operating certificates to support the aerial smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

As proposed, this amendment prescribes a new § 91.84 which requires persons operating civil aircraft on a flight between Mexico or Canada and the United States to file a VFR or IFR flight plan, as appropriate, unless otherwise authorized by ATC. In adopting this amendment the FAA considered the fact that Part 99 already requires a flight plan to be filed for flights between other countries and the United States and is of the opinion that the flight plan requirement will further assist the agency in conducting an effective safety enforcement program.

These amendments are issued under the authority of sections 307(c), 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, parts 61, 63, 65, 91, 133, 137, and 141 of the Federal Aviation Regulations are amended, effective August 1, 1973.

Amendment 137–5

Clarification of Aircraft Inspection Requirements

Adopted: April 14, 1976 **Effective: May 24, 1976**

(Published in 41 F.R. 16796, April 22, 1976)

The purpose of this amendment to Part 137 of the Federal Aviation Regulations is to clarify the applicability of the aircraft inspection requirements of § 137.53(c) to the large and turbine-powered multiengine civil airplanes of U.S. registry that are subject to the inspection requirements contained in § 91.217.

Amendment 91–101 was adopted by the FAA on July 17, 1972 (37 F.R. 14758). That amendment prescribed inspection requirements in § 91.217 for large and turbine-powered multiengine civil airplanes of U.S. registry. The requirements apply to those airplanes when they are used in certain operations, including agricultural aircraft operations governed by Part 137. However, the current provisions of § 137.53(c) do not reflect the inspection requirements in § 91.217, and this could lead to misunderstanding and an unnecessary duplication of inspections under § 137.53(c).

Accordingly, this amendment is being adopted to clarify the inspection requirements of § 137.53(c) applicable to aircraft which have been inspected in accordance with the inspection program requirements of § 91.217.

Since this amendment is clarifying in nature and imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

(Sections 313(a) and 601 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a) and 1421; section 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c)))

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These amendments are issued under the authority of sections 307(c), 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, parts 61, 63, 65, 91, 133, 137, and 141 of the Federal Aviation Regulations are amended, effective August 1, 1973.

Amendment 137–5

Clarification of Aircraft Inspection Requirements

Adopted: April 14, 1976 **Effective: May 24, 1976**

(Published in 41 F.R. 16796, April 22, 1976)

The purpose of this amendment to Part 137 of the Federal Aviation Regulations is to clarify the applicability of the aircraft inspection requirements of § 137.53(c) to the large and turbine-powered multiengine civil airplanes of U.S. registry that are subject to the inspection requirements contained in § 91.217.

Amendment 91–101 was adopted by the FAA on July 17, 1972 (37 F.R. 14758). That amendment prescribed inspection requirements in § 91.217 for large and turbine-powered multiengine civil airplanes of U.S. registry. The requirements apply to those airplanes when they are used in certain operations, including agricultural aircraft operations governed by Part 137. However, the current provisions of § 137.53(c) do not reflect the inspection requirements in § 91.217, and this could lead to misunderstanding and an unnecessary duplication of inspections under § 137.53(c).

Accordingly, this amendment is being adopted to clarify the inspection requirements of § 137.53(c) applicable to aircraft which have been inspected in accordance with the inspection program requirements of § 91.217.

Since this amendment is clarifying in nature and imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

(Sections 313(a) and 601 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a) and 1421; section 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c)))

the use of the aircraft, by any person, in the hazardous business of smuggling. Furthermore, for the same reasons that support actions against airman certificates, the risk-taking willingness of the corporate or individual management of the holders of those operating certificates would clearly negate their ability to adhere to the conditions necessary for safety in air commerce or air transportation. The FAA considers this to be true, regardless of whether that risk-taking occurs by the certificate holder leasing the aircraft to other persons who smuggle the illegal items or by their operating the aircraft themselves in that business.

In addition to the foregoing, the justification for these amendments encompasses the equally important public interest factors that are directly opposed to the continued use of airman and operating certificates to support the aerial smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

As proposed, this amendment prescribes a new § 91.84 which requires persons operating civil aircraft on a flight between Mexico or Canada and the United States to file a VFR or IFR flight plan, as appropriate, unless otherwise authorized by ATC. In adopting this amendment the FAA considered the fact that Part 99 already requires a flight plan to be filed for flights between other countries and the United States and is of the opinion that the flight plan requirement will further assist the agency in conducting an effective safety enforcement program.

These amendments are issued under the authority of sections 307(c), 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, parts 61, 63, 65, 91, 133, 137, and 141 of the Federal Aviation Regulations are amended, effective August 1, 1973.

Amendment 137–5

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Adopted: April 14, 1976 **Effective: May 24, 1976**

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Amendment 91–101 was adopted by the FAA on July 17, 1972 (37 F.R. 14758). That amendment prescribed inspection requirements in § 91.217 for large and turbine-powered multiengine civil airplanes of U.S. registry. The requirements apply to those airplanes when they are used in certain operations, including agricultural aircraft operations governed by Part 137. However, the current provisions of § 137.53(c) do not reflect the inspection requirements in § 91.217, and this could lead to misunderstanding and an unnecessary duplication of inspections under § 137.53(c).

Accordingly, this amendment is being adopted to clarify the inspection requirements of § 137.53(c) applicable to aircraft which have been inspected in accordance with the inspection program requirements of § 91.217.

Since this amendment is clarifying in nature and imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

(Sections 313(a) and 601 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a) and 1421; section 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c)))

the use of the aircraft, by any person, in the hazardous business of smuggling. Furthermore, for the same reasons that support actions against airman certificates, the risk-taking willingness of the corporate or individual management of the holders of those operating certificates would clearly negate their ability to adhere to the conditions necessary for safety in air commerce or air transportation. The FAA considers this to be true, regardless of whether that risk-taking occurs by the certificate holder leasing the aircraft to other persons who smuggle the illegal items or by their operating the aircraft themselves in that business.

In addition to the foregoing, the justification for these amendments encompasses the equally important public interest factors that are directly opposed to the continued use of airman and operating certificates to support the aerial smuggling of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.

As proposed, this amendment prescribes a new § 91.84 which requires persons operating civil aircraft on a flight between Mexico or Canada and the United States to file a VFR or IFR flight plan, as appropriate, unless otherwise authorized by ATC. In adopting this amendment the FAA considered the fact that Part 99 already requires a flight plan to be filed for flights between other countries and the United States and is of the opinion that the flight plan requirement will further assist the agency in conducting an effective safety enforcement program.

These amendments are issued under the authority of sections 307(c), 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, parts 61, 63, 65, 91, 133, 137, and 141 of the Federal Aviation Regulations are amended, effective August 1, 1973.

Amendment 137–5

Clarification of Aircraft Inspection Requirements

Adopted: April 14, 1976 **Effective: May 24, 1976**

(Published in 41 F.R. 16796, April 22, 1976)

The purpose of this amendment to Part 137 of the Federal Aviation Regulations is to clarify the applicability of the aircraft inspection requirements of § 137.53(c) to the large and turbine-powered multiengine civil airplanes of U.S. registry that are subject to the inspection requirements contained in § 91.217.

Amendment 91–101 was adopted by the FAA on July 17, 1972 (37 F.R. 14758). That amendment prescribed inspection requirements in § 91.217 for large and turbine-powered multiengine civil airplanes of U.S. registry. The requirements apply to those airplanes when they are used in certain operations, including agricultural aircraft operations governed by Part 137. However, the current provisions of § 137.53(c) do not reflect the inspection requirements in § 91.217, and this could lead to misunderstanding and an unnecessary duplication of inspections under § 137.53(c).

Accordingly, this amendment is being adopted to clarify the inspection requirements of § 137.53(c) applicable to aircraft which have been inspected in accordance with the inspection program requirements of § 91.217.

Since this amendment is clarifying in nature and imposes no additional burden on any person, I find that notice and public procedure are unnecessary and that good cause exists for making this amendment effective on less than 30 days notice.

(Sections 313(a) and 601 of the Federal Aviation Act of 1958, 49 U.S.C. 1354(a) and 1421; section 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c)))

would place an unnecessary burden on applicants by increasing the time for certification without a commensurate increase in benefits or safety. Upon further review, the FAA agrees and the phrase "In the case of an applicant's first failure" in proposed § 65.19(b) is deleted.

The proposed change to § 65.19(b) with respect to the phrase "In the case of an applicant's first failure' " is identical to the proposed change to §§ 63.41(b) and 63.59(a)(2) in Proposals 4–6 and 4–9 respectively. Accordingly, the proposed change to § 63.41(b) is withdrawn and the proposed change to § 63.59(a)(2) is amended to delete the above phrase.

Several commenters objected to proposed § 65.19(b) because it denied certified ground instructors the privilege of giving additional instruction to applicants in preparing them for retesting. The commenters stated that ground instructors were the only persons, other than flight instructors, who have been tested on their ability to teach various technical subjects. The FAA does not issue ground instructor ratings which are appropriate to teach air traffic control tower operator, aircraft dispatcher, parachute rigger, or mechanic applicants.

Since aviation safety and public interest demands that only persons who have demonstrated their technical knowledge and skill for a particular certificate should be qualified to provide instruction and certify competency for that certificate, the FAA believes the instructor must possess at least the same certificate and rating that the applicant is seeking to obtain. Accordingly, the proposal to amend § 65.19 is adopted as proposed with the revision discussed above.

Proposal 4–13. One commenter believed § 91.8 should be further expanded to include the prohibition against the interference with flight crewmembers before the aircraft is boarded. Since such a prohibition would be difficult to enforce and could give rise to jurisdictional problems, the FAA does not consider this prohibition a proper subject for rulemaking.

One commenter stated that proposed § 91.8(b) could apply to an aircraft owner who might ask the pilot to alter course or change destination. The commenter suggests clarifying the language. Another commenter expressed concern for the proposed wording of § 91.8(b) since it appears that a pilot examiner would be in violation by asking a private pilot applicant to divert from a course during a flight test. This was not the FAA's intent. The prohibition was directed toward unreasonable requirements, such as hijacking or requiring a change under duress. However, after further review, the FAA believes § 91.8(b) is not necessary since these acts are provided for in § 91.8(a). Accordingly, the proposal is adopted with the revisions discussed.

Proposal 4–14. No unfavorable comments were received on the proposal to revise § 91.15(a)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–15. No unfavorable comments were received on the proposal to amend § 91.17. Accordingly, the proposal is adopted without substantive change.

Proposal 4–16. No unfavorable comments were received on the proposal to revise § 91.18(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–17. No unfavorable comments were received on the proposed revision to § 91.43(b). Accordingly, the proposal is adopted without substantive change.

Proposal 4–18. One commenter disagreed with the proposed revision to § 91.52(d)(2) that would require the new expiration date for replacement (or recharge) of the emergency location transmitter's battery to be entered in the aircraft maintenance record and suggested the use of a placard located inside the cabin as a better solution. The FAA believes that a maintenance record entry is a more reliable method of determining the replacement date than a placard. Accordingly, proposed § 91.52(d)(2) is adopted without substantive change.

Proposal 4–19. Several commenters contended that proposed § 91.73(d) would be too restrictive and does not allow sufficient discretionary authority to the pilot in command as to when the anticollision lights should or should not be lighted. They state that the use of a strobe light as an anticollision light would create an unsafe condition during certain aircraft operation such as taxiing, takeoff and landing, if the pilot did not have the option to turn it off except during adverse meteorological conditions.

would place an unnecessary burden on applicants by increasing the time for certification without a commensurate increase in benefits or safety. Upon further review, the FAA agrees and the phrase "In the case of an applicant's first failure" in proposed § 65.19(b) is deleted.

The proposed change to § 65.19(b) with respect to the phrase "In the case of an applicant's first failure' " is identical to the proposed change to §§ 63.41(b) and 63.59(a)(2) in Proposals 4–6 and 4–9 respectively. Accordingly, the proposed change to § 63.41(b) is withdrawn and the proposed change to § 63.59(a)(2) is amended to delete the above phrase.

Several commenters objected to proposed § 65.19(b) because it denied certified ground instructors the privilege of giving additional instruction to applicants in preparing them for retesting. The commenters stated that ground instructors were the only persons, other than flight instructors, who have been tested on their ability to teach various technical subjects. The FAA does not issue ground instructor ratings which are appropriate to teach air traffic control tower operator, aircraft dispatcher, parachute rigger, or mechanic applicants.

Since aviation safety and public interest demands that only persons who have demonstrated their technical knowledge and skill for a particular certificate should be qualified to provide instruction and certify competency for that certificate, the FAA believes the instructor must possess at least the same certificate and rating that the applicant is seeking to obtain. Accordingly, the proposal to amend § 65.19 is adopted as proposed with the revision discussed above.

Proposal 4–13. One commenter believed § 91.8 should be further expanded to include the prohibition against the interference with flight crewmembers before the aircraft is boarded. Since such a prohibition would be difficult to enforce and could give rise to jurisdictional problems, the FAA does not consider this prohibition a proper subject for rulemaking.

One commenter stated that proposed § 91.8(b) could apply to an aircraft owner who might ask the pilot to alter course or change destination. The commenter suggests clarifying the language. Another commenter expressed concern for the proposed wording of § 91.8(b) since it appears that a pilot examiner would be in violation by asking a private pilot applicant to divert from a course during a flight test. This was not the FAA's intent. The prohibition was directed toward unreasonable requirements, such as hijacking or requiring a change under duress. However, after further review, the FAA believes § 91.8(b) is not necessary since these acts are provided for in § 91.8(a). Accordingly, the proposal is adopted with the revisions discussed.

Proposal 4–14. No unfavorable comments were received on the proposal to revise § 91.15(a)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–15. No unfavorable comments were received on the proposal to amend § 91.17. Accordingly, the proposal is adopted without substantive change.

Proposal 4–16. No unfavorable comments were received on the proposal to revise § 91.18(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–17. No unfavorable comments were received on the proposed revision to § 91.43(b). Accordingly, the proposal is adopted without substantive change.

Proposal 4–18. One commenter disagreed with the proposed revision to § 91.52(d)(2) that would require the new expiration date for replacement (or recharge) of the emergency location transmitter's battery to be entered in the aircraft maintenance record and suggested the use of a placard located inside the cabin as a better solution. The FAA believes that a maintenance record entry is a more reliable method of determining the replacement date than a placard. Accordingly, proposed § 91.52(d)(2) is adopted without substantive change.

Proposal 4–19. Several commenters contended that proposed § 91.73(d) would be too restrictive and does not allow sufficient discretionary authority to the pilot in command as to when the anticollision lights should or should not be lighted. They state that the use of a strobe light as an anticollision light would create an unsafe condition during certain aircraft operation such as taxiing, takeoff and landing, if the pilot did not have the option to turn it off except during adverse meteorological conditions.

would place an unnecessary burden on applicants by increasing the time for certification without a commensurate increase in benefits or safety. Upon further review, the FAA agrees and the phrase "In the case of an applicant's first failure" in proposed § 65.19(b) is deleted.

The proposed change to § 65.19(b) with respect to the phrase "In the case of an applicant's first failure' " is identical to the proposed change to §§ 63.41(b) and 63.59(a)(2) in Proposals 4–6 and 4–9 respectively. Accordingly, the proposed change to § 63.41(b) is withdrawn and the proposed change to § 63.59(a)(2) is amended to delete the above phrase.

Several commenters objected to proposed § 65.19(b) because it denied certified ground instructors the privilege of giving additional instruction to applicants in preparing them for retesting. The commenters stated that ground instructors were the only persons, other than flight instructors, who have been tested on their ability to teach various technical subjects. The FAA does not issue ground instructor ratings which are appropriate to teach air traffic control tower operator, aircraft dispatcher, parachute rigger, or mechanic applicants.

Since aviation safety and public interest demands that only persons who have demonstrated their technical knowledge and skill for a particular certificate should be qualified to provide instruction and certify competency for that certificate, the FAA believes the instructor must possess at least the same certificate and rating that the applicant is seeking to obtain. Accordingly, the proposal to amend § 65.19 is adopted as proposed with the revision discussed above.

Proposal 4–13. One commenter believed § 91.8 should be further expanded to include the prohibition against the interference with flight crewmembers before the aircraft is boarded. Since such a prohibition would be difficult to enforce and could give rise to jurisdictional problems, the FAA does not consider this prohibition a proper subject for rulemaking.

One commenter stated that proposed § 91.8(b) could apply to an aircraft owner who might ask the pilot to alter course or change destination. The commenter suggests clarifying the language. Another commenter expressed concern for the proposed wording of § 91.8(b) since it appears that a pilot examiner would be in violation by asking a private pilot applicant to divert from a course during a flight test. This was not the FAA's intent. The prohibition was directed toward unreasonable requirements, such as hijacking or requiring a change under duress. However, after further review, the FAA believes § 91.8(b) is not necessary since these acts are provided for in § 91.8(a). Accordingly, the proposal is adopted with the revisions discussed.

Proposal 4–14. No unfavorable comments were received on the proposal to revise § 91.15(a)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–15. No unfavorable comments were received on the proposal to amend § 91.17. Accordingly, the proposal is adopted without substantive change.

Proposal 4–16. No unfavorable comments were received on the proposal to revise § 91.18(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–17. No unfavorable comments were received on the proposed revision to § 91.43(b). Accordingly, the proposal is adopted without substantive change.

Proposal 4–18. One commenter disagreed with the proposed revision to § 91.52(d)(2) that would require the new expiration date for replacement (or recharge) of the emergency location transmitter's battery to be entered in the aircraft maintenance record and suggested the use of a placard located inside the cabin as a better solution. The FAA believes that a maintenance record entry is a more reliable method of determining the replacement date than a placard. Accordingly, proposed § 91.52(d)(2) is adopted without substantive change.

Proposal 4–19. Several commenters contended that proposed § 91.73(d) would be too restrictive and does not allow sufficient discretionary authority to the pilot in command as to when the anticollision lights should or should not be lighted. They state that the use of a strobe light as an anticollision light would create an unsafe condition during certain aircraft operation such as taxiing, takeoff and landing, if the pilot did not have the option to turn it off except during adverse meteorological conditions.

would place an unnecessary burden on applicants by increasing the time for certification without a commensurate increase in benefits or safety. Upon further review, the FAA agrees and the phrase "In the case of an applicant's first failure" in proposed § 65.19(b) is deleted.

The proposed change to § 65.19(b) with respect to the phrase "In the case of an applicant's first failure' " is identical to the proposed change to §§ 63.41(b) and 63.59(a)(2) in Proposals 4–6 and 4–9 respectively. Accordingly, the proposed change to § 63.41(b) is withdrawn and the proposed change to § 63.59(a)(2) is amended to delete the above phrase.

Several commenters objected to proposed § 65.19(b) because it denied certified ground instructors the privilege of giving additional instruction to applicants in preparing them for retesting. The commenters stated that ground instructors were the only persons, other than flight instructors, who have been tested on their ability to teach various technical subjects. The FAA does not issue ground instructor ratings which are appropriate to teach air traffic control tower operator, aircraft dispatcher, parachute rigger, or mechanic applicants.

Since aviation safety and public interest demands that only persons who have demonstrated their technical knowledge and skill for a particular certificate should be qualified to provide instruction and certify competency for that certificate, the FAA believes the instructor must possess at least the same certificate and rating that the applicant is seeking to obtain. Accordingly, the proposal to amend § 65.19 is adopted as proposed with the revision discussed above.

Proposal 4–13. One commenter believed § 91.8 should be further expanded to include the prohibition against the interference with flight crewmembers before the aircraft is boarded. Since such a prohibition would be difficult to enforce and could give rise to jurisdictional problems, the FAA does not consider this prohibition a proper subject for rulemaking.

One commenter stated that proposed § 91.8(b) could apply to an aircraft owner who might ask the pilot to alter course or change destination. The commenter suggests clarifying the language. Another commenter expressed concern for the proposed wording of § 91.8(b) since it appears that a pilot examiner would be in violation by asking a private pilot applicant to divert from a course during a flight test. This was not the FAA's intent. The prohibition was directed toward unreasonable requirements, such as hijacking or requiring a change under duress. However, after further review, the FAA believes § 91.8(b) is not necessary since these acts are provided for in § 91.8(a). Accordingly, the proposal is adopted with the revisions discussed.

Proposal 4–14. No unfavorable comments were received on the proposal to revise § 91.15(a)(2). Accordingly, the proposal is adopted without substantive change.

Proposal 4–15. No unfavorable comments were received on the proposal to amend § 91.17. Accordingly, the proposal is adopted without substantive change.

Proposal 4–16. No unfavorable comments were received on the proposal to revise § 91.18(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–17. No unfavorable comments were received on the proposed revision to § 91.43(b). Accordingly, the proposal is adopted without substantive change.

Proposal 4–18. One commenter disagreed with the proposed revision to § 91.52(d)(2) that would require the new expiration date for replacement (or recharge) of the emergency location transmitter's battery to be entered in the aircraft maintenance record and suggested the use of a placard located inside the cabin as a better solution. The FAA believes that a maintenance record entry is a more reliable method of determining the replacement date than a placard. Accordingly, proposed § 91.52(d)(2) is adopted without substantive change.

Proposal 4–19. Several commenters contended that proposed § 91.73(d) would be too restrictive and does not allow sufficient discretionary authority to the pilot in command as to when the anticollision lights should or should not be lighted. They state that the use of a strobe light as an anticollision light would create an unsafe condition during certain aircraft operation such as taxiing, takeoff and landing, if the pilot did not have the option to turn it off except during adverse meteorological conditions.

not a change intended by the proposal. Accordingly, the proposal to revise § 145.17(b) is adopted as proposed except for the revision discussed above.

Proposal 4-64. No unfavorable comments were received on the proposal to amend § 145.59(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4-65. No unfavorable comments were received on the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2). After further review, the FAA believes that the following editorial changes should be made: (1) in the proposed § 147.31(c)(1)(iii) the word "accreditation" is used in place of the word "certification" which appears in current § 147.31(c)(1). This oversight is corrected in the adopted rule since it was not the intent of the proposal to change the wording to accreditation; (2) the phrase "other than the crediting school" immediately following the word "accreditation" in proposed § 147.31(c)(1)(iii) was inadvertantly omitted and has been included in the final rule. Accordingly, the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2) is adopted as proposed except for the revisions discussed above.

Proposal 4-66. Although there were no unfavorable comments to the proposed deletion and reservation of Part 149, the *proposal is withdrawn for the reasons discussed in Proposal 4-62.

Drafting Infromation

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard B. Elwell, Office of General Counsel.

Adoption of the Amendments

Accordingly, Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147 of the federal Aviation Regulations (14 CFR Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147) are amended as follows, effective June 26, 1978.

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430)) and Sec. 6(c) of the Department of Transportation Act (41 U.S.C. 1655)).)

Note.-The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Amendment 137-8

Special VFR Night Operations

Adopted: June 19, 1978 **Effective: July 28, 1978**

(Published in 43 F.R. 28177, June 29, 1978)

SUMMARY: This amendment allows agricultural aircraft operators to conduct special VFR night operations without complying with certain instrument flight requirements. The FAA considers the current instrument flight requirements for special VFR night operations to be unnecessary and impractical for agricultural flights and believes it would be in the public interest if these requirements were eliminated.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

not a change intended by the proposal. Accordingly, the proposal to revise § 145.17(b) is adopted as proposed except for the revision discussed above.

Proposal 4–64. No unfavorable comments were received on the proposal to amend § 145.59(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4–65. No unfavorable comments were received on the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2). After further review, the FAA believes that the following editorial changes should be made: (1) in the proposed § 147.31(c)(1)(iii) the word "accreditation" is used in place of the word "certification" which appears in current § 147.31(c)(1). This oversight is corrected in the adopted rule since it was not the intent of the proposal to change the wording to accreditation; (2) the phrase "other than the crediting school" immediately following the word "accreditation" in proposed § 147.31(c)(1)(iii) was inadvertantly omitted and has been included in the final rule. Accordingly, the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2) is adopted as proposed except for the revisions discussed above.

Proposal 4–66. Although there were no unfavorable comments to the proposed deletion and reservation of Part 149, the *proposal is withdrawn for the reasons discussed in Proposal 4–62.

Drafting Infromation

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard B. Elwell, Office of General Counsel.

Adoption of the Amendments

Accordingly, Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147 of the federal Aviation Regulations (14 CFR Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147) are amended as follows, effective June 26, 1978.

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and Sec. 6(c) of the Department of Transportation Act (41 U.S.C. 1655)).)

Note.-The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Amendment 137–8

Special VFR Night Operations

Adopted: June 19, 1978 **Effective: July 28, 1978**

(Published in 43 F.R. 28177, June 29, 1978)

SUMMARY: This amendment allows agricultural aircraft operators to conduct special VFR night operations without complying with certain instrument flight requirements. The FAA considers the current instrument flight requirements for special VFR night operations to be unnecessary and impractical for agricultural flights and believes it would be in the public interest if these requirements were eliminated.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION:

not a change intended by the proposal. Accordingly, the proposal to revise § 145.17(b) is adopted as proposed except for the revision discussed above.

Proposal 4-64. No unfavorable comments were received on the proposal to amend § 145.59(a). Accordingly, the proposal is adopted without substantive change.

Proposal 4-65. No unfavorable comments were received on the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2). After further review, the FAA believes that the following editorial changes should be made: (1) in the proposed § 147.31(c)(1)(iii) the word "accreditation" is used in place of the word "certification" which appears in current § 147.31(c)(1). This oversight is corrected in the adopted rule since it was not the intent of the proposal to change the wording to accreditation; (2) the phrase "other than the crediting school" immediately following the word "accreditation" in proposed § 147.31(c)(1)(iii) was inadvertantly omitted and has been included in the final rule. Accordingly, the proposal to revise § 147.31(c)(1) and to add a new § 147.31(c)(2) is adopted as proposed except for the revisions discussed above.

Proposal 4-66. Although there were no unfavorable comments to the proposed deletion and reservation of Part 149, the *proposal is withdrawn for the reasons discussed in Proposal 4-62.

Drafting Infromation

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard B. Elwell, Office of General Counsel.

Adoption of the Amendments

Accordingly, Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147 of the federal Aviation Regulations (14 CFR Parts 43, 61, 63, 65, 91, 105, 121, 123, 127, 137, 145, and 147) are amended as follows, effective June 26, 1978.

(Secs. 313, 314, and 601 through 610 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and Sec. 6(c) of the Department of Transportation Act (41 U.S.C. 1655)).)

Note.-The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Amendment 137-8

Special VFR Night Operations

Adopted: June 19, 1978 **Effective: July 28, 1978**

(Published in 43 F.R. 28177, June 29, 1978)

SUMMARY: This amendment allows agricultural aircraft operators to conduct special VFR night operations without complying with certain instrument flight requirements. The FAA considers the current instrument flight requirements for special VFR night operations to be unnecessary and impractical for agricultural flights and believes it would be in the public interest if these requirements were eliminated.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

for exemptions from the requirements of Part 139 (14 CFR Part 139). Further, the last sentence of paragraph (a) of § 11.41 is placed in new paragraph (c) of § 11.41 since new paragraph (c) contains the definitions for the subpart. Finally, paragraph (c) of § 11.53 is deleted since its substance is incorporated in the new paragraph (c) of § 11.41 which relates to the scope of the entire subpart.

B. Appendices to Parts, Technical Standard Orders, Minimum En Route IFR Altitudes and Associated Flight Data, and Standard Instrument Approach Procedures

By amending § 11.49 the head of the Office or Service concerned is delegated the authority to issue, amend, or repeal appendices to parts of the Federal Aviation Regulations. These appendices contain technical details relating to specific sections within the part and they do not involve basic policy considerations. Therefore, the general involvement of the Administrator in regulatory actions related to appendices is not warranted.

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In contrast to the above procedure, new § 11.55(c) provides that, in the case of a petition for reconsideration of a denial of an exemption from the requirements of Part 67 of the Federal Aviation Regulations, (14 CFR Part 67) the petition is to be filed with, and the reconsideration is to be by, the Federal Air Surgeon. The difference in the procedure for reconsideration of denials of Part 67 exemptions is due to the large quantity of Part 67 exemptions requested, approximately 100 a month, and the specialized nature of the medical decisionmaking in these cases which requires specialized medical expertise. A decision on a petition for reconsideration still would be made by the Administrator if the Federal Air Surgeon referred the decision on the initial petition for exemption to the Administrator in accordance with § 11.53.

A petition for reconsideration would have to be based on either a material mistake In fact or law or the presence of an additional fact not presented to the FAA in the initial petition.

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Except for the amendments to §§ 11.61 and 11.81, the revisions of Part 11 made by these amendments do not relate to the issuance of Airworthiness Directives and rules concerning airspace assignment and use provided for in Subparts D and E of Part 11. Those subparts already contain delegations sufficient to provide for appropriate decentralization of rule making.

E. Various Operating Certificates, Operations Specifications and Airport Operations Manuals

Parts 121, 127, 133, 137, and 139 of Subchapter G of the Federal Aviation Regulations (14 CFR Parts 121, 127, 133, 137, and 139) are revised to indicate that the Administrator delegates to the head of the Office or Service concerned the authority to reconsider refusals of applications by certificate holders for amendments to various operating certificates, operations specifications, and airport operations manuals, and to reconsider amendments initiated by the FAA to operations specifications and airport operations manuals. Certain editorial changes are also contained in these amendments which make the sections affected consistent with the delegated authority.

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Adoption of the Amendments

Accordingly, Parts 25, 127, and 137 of the Federal Aviation Regulations (14 CFR 25, 127, and 137) are amended effective December 24, 1979.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c))))

Note.-The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the person and address listed under "For Further Information Contact".

Amendment 137–11

Redelegation of Authority

Adopted: July 8, 1980 **Effective: September 10, 1980**

(Published in 45 F.R. 47837, July 17, 1980)

SUMMARY: These amendments redelegate authority formerly held by the Director, Flight Standards Service, to the Director of Airworthiness or the Director of Flight Operations, as appropriate. These amendments are necessary because of a reorganization within FAA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Eli Newberger, Regulatory Projects Branch (AVS–24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755–8716.

SUPPLEMENTARY INFORMATION: In 1979 Flight Standards Service was reorganized under the Associate Administrator for Aviation Standards. Flight Standards Service was abolished and the Offices of Airworthiness, Flight Operations, and Aviation Safety were established. References to the Director, Flight Standards Service, contained in the Federal Aviation Regulations need to be redelegated to the appropriate new office. In addition, since § 11.49(b)(2) was deleted by Amendment 11–18 (45 FR 38342), § 11.49(b)(3) is designated § 11.49(b)(2).

NOTICE AND PUBLIC PROCEDURE

Since these amendments are editorial and administrative in nature and impose no burden on the public, I find that notice and public procedure are unnecessary.

THE AMENDMENTS

Accordingly, Parts 11, 91, 121, 135, and 137 of the Federal Aviation Regulations (14 CFR Parts 11, 91, 121, 135, 137) are amended, effective September 10, 1980.

[Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c))]]

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Several commenters raise objections to proposed §91.203(a)(2), which would prevent an aircraft from operating outside of the United States under the temporary authority of the pink copy of the Aircraft Registration Application as provided in § 47.31(b). The commenters assert that the proposal is a substantive change and not a clarification of the present rule; and that the FAA should consider the economic impact on the industry, the consumers, and the historical precedence of past practices. These commenters suggest that the FAA withdraw the proposal and acknowledge the pink copy of the application as a temporary certificate of registration.

Another commenter is of the opinion that the FAA has not provided discussion, as required by Executive Order 12291, on the economic impacts that would result from the delay between application for an issuance or denial of the registration certificate, under the proposals, in the NPRM. The commenter maintains that future investment purchases and leases would also be adversely affected. Several commenters also question the regulatory consistency that the FAA claims as the basis for the change.

These comments were responded to in full in a Notice of Legal Opinion issued December 1988 (53 FR 50208; December 14, 1988). That Notice of Legal Opinion stated that the limitation of temporary authority to operate an aircraft without registration to domestic operations (as also provided in new §91.203(a)(2)) reflects current U.S. law and practice. Concerning the economic impact of this ruling, the FAA in that Notice of Legal Opinion answered:

> The aviation community has always been able to transfer ownership and register their aircraft with minimal difficulty. In order to mitigate the potential hardship that could result from grounding an aircraft used in international operations, pending receipt of a registration certificate, the Registry will, upon request, telex a copy of the Certificate of Aircraft Registration to the individual whose name appears on the application as the registered owner of the aircraft. The telex copy is issued after confirmation of the information contained on an Aircraft Registration Application and determination of eligibility for registration. The telex, which reflects critical and verified information resulting from the evaluation by the Registry of an application for aircraft registration, may be used as a temporary Certificate of Aircraft Registration until the original certificate is forwarded for carriage in the aircraft.
>
> This telex certificate will assist owners who submit an application for aircraft registration and who wish to operate the aircraft as soon as possible in international operations. Since the telex, by its terms, is a form of registration certificate, the aircraft may be operated in international air navigation consistent with Article 29 of the Convention [Convention on International Civil Aviation (61 Stat. 1180; T.I.A.S. 1591; 15 U.N.T.S. 295)]. The Registry will telex this copy within a matter of days-often within 48 hours-to be kept in the aircraft until the original Certificate of Aircraft Registration (AC Form 8050–3) is forwarded to the registered owner.

Accordingly, the FAA has determined that the rule should be amended as proposed, and consistent with the Chief Counsel's legal opinion, to provide explicitly that operations of aircraft outside the United States for which an application for registration has been submitted but certificate of registration has not been issued are not authorized under the Federal Aviation Regulations.

Several judicial decisions have defined the "shore" as including tidal flats. In some parts of the United States, these tidal flats can extend for several miles and, because of the extreme tides prevalent in these areas, the land may be submerged under as much as 25 to 35 feet of water during periods of high tide. The intent of the rule is to require operators carrying passengers for hire over these areas to equip their aircraft with the necessary flotation gear and pyrotechnic devices. Therefore, "shore," when it is used in §§ 91.205, 91.509, and 91.511, is defined to exclude land areas, such as tidal flats, which are intermittently under water.

An incorrect reference to "§ 91.169" was used in proposed § 91.409(e), which has been corrected to "§ 91.409" in the final rule.

Several commenters raise objections to proposed §91.203(a)(2), which would prevent an aircraft from operating outside of the United States under the temporary authority of the pink copy of the Aircraft Registration Application as provided in § 47.31(b). The commenters assert that the proposal is a substantive change and not a clarification of the present rule; and that the FAA should consider the economic impact on the industry, the consumers, and the historical precedence of past practices. These commenters suggest that the FAA withdraw the proposal and acknowledge the pink copy of the application as a temporary certificate of registration.

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These comments were responded to in full in a Notice of Legal Opinion issued December 1988 (53 FR 50208; December 14, 1988). That Notice of Legal Opinion stated that the limitation of temporary authority to operate an aircraft without registration to domestic operations (as also provided in new §91.203(a)(2)) reflects current U.S. law and practice. Concerning the economic impact of this ruling, the FAA in that Notice of Legal Opinion answered:

> The aviation community has always been able to transfer ownership and register their aircraft with minimal difficulty. In order to mitigate the potential hardship that could result from grounding an aircraft used in international operations, pending receipt of a registration certificate, the Registry will, upon request, telex a copy of the Certificate of Aircraft Registration to the individual whose name appears on the application as the registered owner of the aircraft. The telex copy is issued after confirmation of the information contained on an Aircraft Registration Application and determination of eligibility for registration. The telex, which reflects critical and verified information resulting from the evaluation by the Registry of an application for aircraft registration, may be used as a temporary Certificate of Aircraft Registration until the original certificate is forwarded for carriage in the aircraft.
>
> This telex certificate will assist owners who submit an application for aircraft registration and who wish to operate the aircraft as soon as possible in international operations. Since the telex, by its terms, is a form of registration certificate, the aircraft may be operated in international air navigation consistent with Article 29 of the Convention [Convention on International Civil Aviation (61 Stat. 1180; T.I.A.S. 1591; 15 U.N.T.S. 295)]. The Registry will telex this copy within a matter of days-often within 48 hours-to be kept in the aircraft until the original Certificate of Aircraft Registration (AC Form 8050–3) is forwarded to the registered owner.

Accordingly, the FAA has determined that the rule should be amended as proposed, and consistent with the Chief Counsel's legal opinion, to provide explicitly that operations of aircraft outside the United States for which an application for registration has been submitted but certificate of registration has not been issued are not authorized under the Federal Aviation Regulations.

Several judicial decisions have defined the "shore" as including tidal flats. In some parts of the United States, these tidal flats can extend for several miles and, because of the extreme tides prevalent in these areas, the land may be submerged under as much as 25 to 35 feet of water during periods of high tide. The intent of the rule is to require operators carrying passengers for hire over these areas to equip their aircraft with the necessary flotation gear and pyrotechnic devices. Therefore, "shore," when it is used in §§ 91.205, 91.509, and 91.511, is defined to exclude land areas, such as tidal flats, which are intermittently under water.

An incorrect reference to "§ 91.169" was used in proposed § 91.409(e), which has been corrected to "§ 91.409" in the final rule.

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Amendment No. 91–203, (53 FR 23374; June 21, 1988, 53 FR 25050; July 1, 1988, and 53 FR 26592; July 14, 1988) amended or revised §91.24 (ATC transponder and altitude reporting equipment and use), 91.88 (Airport radar service areas), and 91.90 (Terminal control areas), and by adding a new Appendix D entitled ‘ ‘Airports/Locations Where the Transponder Requirements of § 91.24(b)(5)(iii) Apply,” regarding use of transponders with automatic altitude reporting. This amendment took effect on July 21, 1988. Amendment No. 91–205 (53 FR 40323; October 14, 1988) revised § 91.90 in its entirety effective January 12, 1989. Amendment No. 91–209 (54 FR 24883; June 9, 1989) amended § 91.90 by delaying the effective date of the section for helicopter operations. These rules now appear in this revision as §§ 91.215, 91.130, 91.131, and new Appendix D to Part 91, respectively.

Amendment No. 91–204, (53 FR 26145; July 11, 1988) amended current § 91.35 on flight recorders and cockpit voice recorders to require digital flight recorders and voice recorders to be installed on selected aircraft operated in general aviation. The specifications for such recorders are set forth in a new Appendix E to Part 91 for airplanes and in a new Appendix F to Part 91 for helicopters. The amendment is reflected as §91.609(b), (c), (d), and (e), and new Appendixes E and F to Part 91. This amendment becomes effective on October 11, 1991.

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Amendment No. 91–206 (53 FR 50195; December 13, 1988) amended §91.30 to permit rotorcraft, nonturbine-powered airplanes, gliders, and lighter-than-air aircraft, for which an approved Master Minimum Equipment List has not been developed, to be operated with inoperative instruments and equipment not essential for the safe operation of the aircraft. The amendment also permits general aviation operators of small rotorcraft, nonturbine-powered small airplanes, gliders, and lighter-than air aircraft for which a Master Minimum Equipment List has been developed, the option of operating under the minimum equipment list concept, or under other conditions as set forth in the amendment. Amendment No. 91–206 also amended § 91.165 to require that any inoperative instrument or item of equipment permitted to be inoperative under the new amended §91.30 to be repaired, replaced, removed, or inspected at the next required inspection for the aircraft. These amendments became effective on December 13, 1988, and appear as §§ 91.213 and 91.405 of this revision to Part 91.

Amendment No. 91–207 (54 FR 265; January 4, 1989) amended §§ 91.1 and 91.61 to extend the controlled airspace and the applicability of certain air traffic rules to coincide with presidential action to extend the territorial sea of the United States for international purposes, from 3 to 12 nautical miles from the U.S. coast. This amendment became effective on December 27, 1988. These amended rules now appear as §§ 91.1 and 91.101.

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Old Section	New Section
91.161	91.401
91.163	91.403
91.165	91.405
91.167	91.407
91.169	91.409
91.170	91.515
91.171	91.411
91.172	91.413
91.173	91.417
91.174	91.419
91.175	91.421
91.181	91.501
91.183	91.503
91.185	91.505
91.187	91.507
91.189	91.509
91.191	91.511
91.193	91.513
91.195	91.515
91.197	91.517
91.199	91.519
91.200	91.521
91.201	91.523
91.203	91.525
91.205	Deleted
91.207	Deleted
91.209	91.527
91.211	91.529
91.213	91.531
91.215	91.533
91.301	91.801
91.302	91.803
91.303	91.805
91.305	91.807
91.306	91.809
91.307	91.811
91.308	91.813
91.309	91.819
91.311	91.821
Appendix A	Appendix A
Appendix B	Appendix B
Appendix C	Appendix C
Appendix D	appendix D
Appendix E	Appendix E
Appendix F	Appendix F

Cross Reference Table

Old Section	New Section
91.1	91.1
91.3	91.3
91.5	91.4
91.7	91.29
91.9	91.31
91.11	91.8
91.13	91.9 and 91.10
91.15	91.13
91.17	91.11
91.19	91.12
91.21	91.19

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91.173	91.417
91.174	91.419
91.175	91.421
91.181	91.501
91.183	91.503
91.185	91.505
91.187	91.507
91.189	91.509
91.191	91.511
91.193	91.513
91.195	91.515
91.197	91.517
91.199	91.519
91.200	91.521
91.201	91.523
91.203	91.525
91.205	Deleted
91.207	Deleted
91.209	91.527
91.211	91.529
91.213	91.531
91.215	91.533
91.301	91.801
91.302	91.803
91.303	91.805
91.305	91.807
91.306	91.809
91.307	91.811
91.308	91.813
91.309	91.819
91.311	91.821
Appendix A	Appendix A
Appendix B	Appendix B
Appendix C	Appendix C
Appendix D	appendix D
Appendix E	Appendix E
Appendix F	Appendix F

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91.3	91.3
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91.9	91.31
91.11	91.8
91.13	91.9 and 91.10
91.15	91.13
91.17	91.11
91.19	91.12
91.21	91.19

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91.165	91.405
91.167	91.407
91.169	91.409
91.170	91.515
91.171	91.411
91.172	91.413
91.173	91.417
91.174	91.419
91.175	91.421
91.181	91.501
91.183	91.503
91.185	91.505
91.187	91.507
91.189	91.509
91.191	91.511
91.193	91.513
91.195	91.515
91.197	91.517
91.199	91.519
91.200	91.521
91.201	91.523
91.203	91.525
91.205	Deleted
91.207	Deleted
91.209	91.527
91.211	91.529
91.213	91.531
91.215	91.533
91.301	91.801
91.302	91.803
91.303	91.805
91.305	91.807
91.306	91.809
91.307	91.811
91.308	91.813
91.309	91.819
91.311	91.821
Appendix A	Appendix A
Appendix B	Appendix B
Appendix C	Appendix C
Appendix D	appendix D
Appendix E	Appendix E
Appendix F	Appendix F

Cross Reference Table

Old Section	New Section
91.1	91.1
91.3	91.3
91.5	91.4
91.7	91.29
91.9	91.31
91.11	91.8
91.13	91.9 and 91.10
91.15	91.13
91.17	91.11
91.19	91.12
91.21	91.19

Old Section	New Section
91.161	91.401
91.163	91.403
91.165	91.405
91.167	91.407
91.169	91.409
91.170	91.515
91.171	91.411
91.172	91.413
91.173	91.417
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91.183	91.503
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91.187	91.507
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91.191	91.511
91.193	91.513
91.195	91.515
91.197	91.517
91.199	91.519
91.200	91.521
91.201	91.523
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Preamble to Amendment 137–14

Airspace Reclassification

Adopted: November 14, 1991 **Effective: September 16, 1993**

(Published in 56 FR 65638, December 17, 1991)

SUMMARY: This final rule amends the Federal Aviation Regulations (FAR) to adopt certain recommendations of the National Airspace Review (NAR) concerning changes to regulations and procedures in regard to airspace classifications. These changes are intended to: (1) simplify airspace designations; (2) achieve international commonality of airspace designations; (3) increase standardization of equipment requirements for operations in various classifications of airspace; (4) describe appropriate pilot certificate requirements, visual flight rules (VFR) visibility and distance from cloud rules, and air traffic services offered in each class of airspace; and (5) satisfy the responsibilities of the United States as a member of the International Civil Aviation Organization (ICAO). The final rule also amends the requirement for minimum distance from clouds in certain airspace areas and the requirements for communications with air traffic control (ATC) in certain airspace areas; eliminates airport radar service areas (ARSAs), control zones, and terminal control areas (TCAs) as airspace classifications; and eliminates the term "airport traffic area." The FAA believes simplified airspace classifications will reduce existing airspace complexity and thereby enhance safety.

EFFECTIVE DATES: These regulations become effective September 16, 1993, except that §§ 11.61(c), 91.215(b) introductory text, 91.215(d), 71.601, 71.603, 71.605, 71.607, and 71.609 and Part 75 become effective December 12, 1991, and except that amendatory instruction number 20, § 7 1.1, is effective as of December 17, 1991 through September 15, 1993, and that §§ 7 1.11 and 7 1.19 become effective October 15, 1992. The incorporation by reference of FAA Order 7400.7 in § 71.1 (amendatory instruction number 20) is approved by the Director of the Federal Register as of December 17, 1991 through September 15, 1993. The incorporation by reference of FAA Order 7400.9 in § 71.1 (amendatory instruction number 24) is approved by the Director of the Federal Register as of September 16, 1993 through September 15, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 267-9251.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the NAR plan was published in the *Federal Register* (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the ATC system. Organizations participating with the FAA in the NAR included: Aircraft Owners and Pilots Association (AOPA), Air Line Pilots Association (ALPA), Air Transport Association (ATA), Department of Defense (DOD), Experimental Aircraft Association (EAA), Helicopter Association International (HAI), National Association of State Aviation Officials (NASAO), National Business Aircraft Association (NBAA), and Regional Airline Association (RAA).

The main objectives of the NAR were to:

(1) Develop and incorporate a more efficient relationship between traffic flows, airspace allocation, and system capacity in the ATC system. This relationship will involve the use of improved air traffic flow management to maximize system capacity and to improve airspace management.

(2) Review and eliminate, wherever practicable, governmental restraints to system efficiency thereby reducing complexity and simplifying the ATC system.

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in NPRM No. 88–2. The FAA will not adopt this proposal and the regulatory agenda will be revised to delete the U.S. Control Area project.

On October 4, 1990, the FAA established SFAR No. 60—Air Traffic Control System Emergency Operations (55 FR 40758) and on December 5, 1990, the FAA established SFAR No. 62—Suspension of Certain Aircraft Operations from the Transponder with Automatic Pressure Altitude Reporting Capability Requirement (55 FR 50302). These SFARs are revised by replacing references to such terms as "terminal control area" with "Class B airspace area" to integrate the appropriate airspace classification.

Obsolete clauses in the existing rule are deleted and typographical errors in the proposal are corrected. The final rule also revises affected paragraphs of the existing rule requiring modification as a result of the rulemaking action but not included in NPRM No. 89–28. The modifications to these paragraphs replace such terms as "terminal control area" and "control zone" with language to integrate the appropriate airspace classification.

Under airspace reclassification, the Sabre U.S. Army Heliport (Tennessee) Airport Traffic Area will become a Class D airspace area; the Jacksonville, Florida, Navy Airport Traffic Area will become three separate but adjoining Class D airspace areas; and the El Toro, California, Special Air Traffic Rules will become part of the El Toro Class C airspace area. Currently, these airports operate under special air traffic rules in Subparts N, O, and R of Part 93. To achieve a goal of airspace reclassification, which is to simplify airspace, the existing rules for these airspace areas are to be deleted as of September 16, 1993. Therefore, this amendment removes and reserves Subparts N, O, and R of Part 93 as of September 16, 1993.

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Subpart K-Terminal Control Areas		***Subpart B-Class B Airspace***
§ 71.401(a)	Designation.	Subpart B of FAA Order 7400.9.
§ 71.401(b)	Terminal control areas.	Subpart B of FAA Order 7400.9.
Subpart C--Airport Radar Service Areas		***Subpart C-Class C Airspace***
§ 71.501	Designation.	Subpart C of FAA Order 7400.9.
Subpart M-Jet Routes and Area High Routes		***Subpart A-General; Class A Airspace***
§ 71.601	Applicability.	Not applicable.
§ 71.603	Jet routes.	Subpart A of FAA Order 7400.9.
§ 71.605	Area routes above 18,000 feet MSL.	Subpart A of FAA Order 7400.9.
§ 71.607	Jet route descriptions.	Subpart A of FAA Order 7400.9.
§ 71.609	Area high route descriptions.	Subpart A of FAA Order 7400.9.

Discussion of Comments

A total of 205 commenters submitted comments to Docket No. 24456 on NPRM No. 89–28. The FAA considered these comments in the adoption of this rule and changes to the proposals were made accordingly. Some comments did not specifically apply to any particular proposal addressed in NPRM No. 89–28. These comments related to the requirements for a transponder with Mode C capabilities, the FAA's anti-drug program, and the proposed TCA for the Washington-Baltimore metropolitan area.

Comments submitted on NPRM No. 89–28 reflect the views of a broad spectrum of the aviation public. The commenters included individuals as well as organizations representing commercial and general aviation pilots. Organizations that commented on NPRM No. 89-28 include: AOPA, ALPA, Air Traffic Control Association (ATCA), ATA, Alaska Airmen's Association, Arizona Pilots Association, Canadian Owners and Pilots Association (COPA), EAA, Ohio Department of Transportation, and Soaring Society of America (SSA).

The following is a discussion of issues addressed in the comments in accordance with the reclassification effort and each classification of airspace. A general division entitled, ***Additional Comments,*** addresses issues that do not affect a specific airspace classification. Each discussion includes a description of the final amendment and an explanation of the FAA's views.

Reclassification of Airspace

One hundred and forty-one comments on the proposal to reclassify U.S. airspace to meet ICAO standards were submitted. Sixty-eight supported reclassification and 69 opposed reclassification. Four commenters neither supported nor opposed the reclassification effort, but offered observations.

The 68 supporting comments include those submitted by the ATA, ATCA, and COPA. The COPA stated that on an average, approximately 60,000 general aviation aircraft cross the U.S./Canadian border each year. Some commenters stated that the proposed classifications are easier to understand than the current classifications and noted that the proposed classifications

Subpart K-Terminal Control Areas		***Subpart B-Class B Airspace***
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Subpart C--Airport Radar Service Areas		***Subpart C-Class C Airspace***
§ 71.501	Designation.	Subpart C of FAA Order 7400.9.
Subpart M-Jet Routes and Area High Routes		***Subpart A-General; Class A Airspace***
§ 71.601	Applicability.	Not applicable.
§ 71.603	Jet routes.	Subpart A of FAA Order 7400.9.
§ 71.605	Area routes above 18,000 feet MSL.	Subpart A of FAA Order 7400.9.
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Subpart C--Airport Radar Service Areas		***Subpart C-Class C Airspace***
§ 71.501	Designation.	Subpart C of FAA Order 7400.9.
Subpart M-Jet Routes and Area High Routes		***Subpart A-General; Class A Airspace***
§ 71.601	Applicability.	Not applicable.
§ 71.603	Jet routes.	Subpart A of FAA Order 7400.9.
§ 71.605	Area routes above 18,000 feet MSL.	Subpart A of FAA Order 7400.9.
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Subpart C--Airport Radar Service Areas		***Subpart C-Class C Airspace***
§ 71.501	Designation.	Subpart C of FAA Order 7400.9.
Subpart M-Jet Routes and Area High Routes		***Subpart A-General; Class A Airspace***
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Reclassification of Airspace

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The 68 supporting comments include those submitted by the ATA, ATCA, and COPA. The COPA stated that on an average, approximately 60,000 general aviation aircraft cross the U.S./Canadian border each year. Some commenters stated that the proposed classifications are easier to understand than the current classifications and noted that the proposed classifications

Class A Airspace

NPRM No. 89-28 proposed to reclassify the PCAs as Class A airspace areas with no other alterations to this airspace. Four commenters, including AOPA, neither supported nor opposed this classification; however, they offered comments and modifications. Some commenters stated that if the FAA adopts the Class A designation for the PCAs, Class A airspace areas should remain en route airspace and should not be lower than 18,000 feet mean sea level (MSL).

As proposed, the FAA will reclassify the PCAs as Class A airspace areas. In addition, jet routes and area high routes will be reclassified as Class A airspace areas. These airspace areas, which consist of direct courses for navigating aircraft at altitudes between 18,000 feet MSL and flight level 450, inclusive, meet the criteria of Class A airspace as adopted by ICAO.

As noted earlier, the recommended ICAO airspace classes are not based on whether the airspace area is designated for "en route" or "terminal" operations. Any new Class A airspace areas would be proposed in separate rulemaking actions.

Class B Airspace

NPRM No. 89-28 proposed to reclassify TCAs as Class B airspace areas and to amend the minimum distances by which aircraft operating under VFR must remain from clouds. The current VFR minimum distance requirements of 500 feet below, 1,000 feet above, and 2,000 feet horizontal from clouds will be amended to require that the pilot must remain clear of clouds.

One comment supports and two comments specifically oppose the proposed reclassification. Twelve comments on the proposal to amend minimum distance from clouds for VFR operations in Class B airspace areas were received. Eight of these comments support and four oppose the proposal.

The comments submitted in support of the proposal to reclassify TCAs as Class B airspace areas and to modify the minimum distances from cloud for VFR operations include those from AOPA, the Alaska Airmen's Association, EAA, and SSA. AOPA stated that the proposal "is a positive step in improvement of VFR traffic flow within" Class B airspace areas.

A commenter in support of reclassification stated that some of the areas to be classified as Class B airspace areas could be redesignated as Class C airspace areas.

The four comments submitted in opposition to the proposed amendment on distance from cloud requirements for VFR operations include a comment from ALPA. Some commenters stated that the proposal to modify the minimum distance from clouds for VFR flight in Class B airspace areas reduces the existing margin of safety. ALPA further stated that the ability of a pilot to maintain visual contact with other aircraft is reduced if aircraft operate in close proximity to clouds. One commenter stated that the proposals do not answer the need for clear radio failure procedures in Class B airspace areas. Another commenter stated that Class B airspace areas are actually divided into two types of Class B airspace: one in which a private pilot certificate is required and one in which, at a minimum, only a student pilot certificate is required.

This rulemaking reclassifies existing airspace areas with the equivalent recommended ICAO airspace area. It does not redesignate existing airspace areas. For example, the redesignation of a Class B airspace area (TCA) to a Class C airspace area (ARSA) is beyond the scope of this rulemaking. The FAA believes that the elimination of terminal areas designated as Class B airspace areas would create a substantial adverse impact on the safe and efficient control of air traffic in those high volume terminal areas. Class B airspace areas, like the TCAs that preceded them, provide more efficient control in terminal areas where there is a large volume of air traffic and where a high percentage of that traffic is large turbine-powered aircraft. Additionally, on July 25, 1991, the FAA revised FAA Order 7110.65, ***Air***

Class A Airspace

NPRM No. 89-28 proposed to reclassify the PCAs as Class A airspace areas with no other alterations to this airspace. Four commenters, including AOPA, neither supported nor opposed this classification; however, they offered comments and modifications. Some commenters stated that if the FAA adopts the Class A designation for the PCAs, Class A airspace areas should remain en route airspace and should not be lower than 18,000 feet mean sea level (MSL).

As proposed, the FAA will reclassify the PCAs as Class A airspace areas. In addition, jet routes and area high routes will be reclassified as Class A airspace areas. These airspace areas, which consist of direct courses for navigating aircraft at altitudes between 18,000 feet MSL and flight level 450, inclusive, meet the criteria of Class A airspace as adopted by ICAO.

As noted earlier, the recommended ICAO airspace classes are not based on whether the airspace area is designated for "en route" or "terminal" operations. Any new Class A airspace areas would be proposed in separate rulemaking actions.

Class B Airspace

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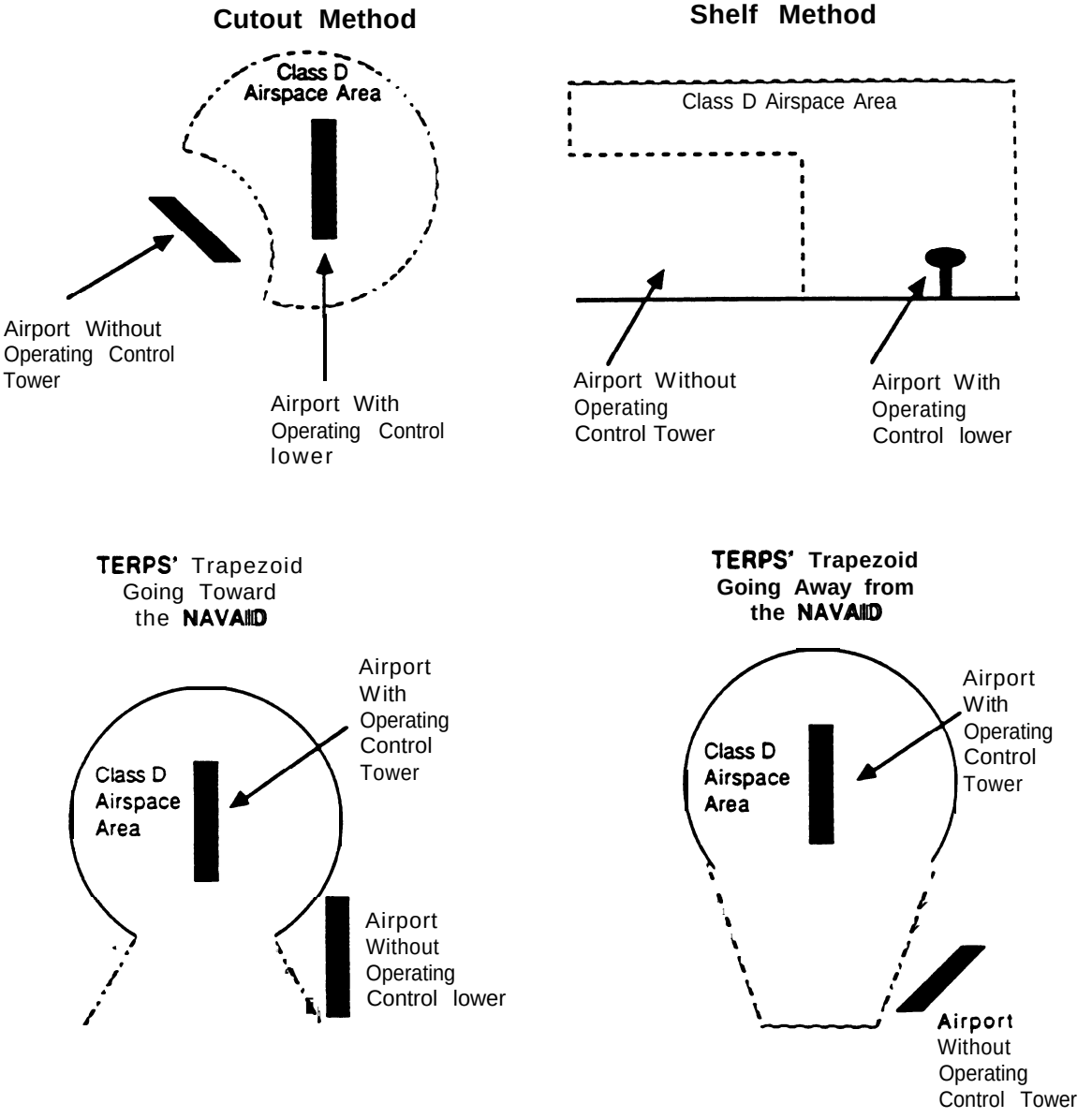
Figure 1. Examples of Satellite Airports Excluded from Class D Airspace Areas



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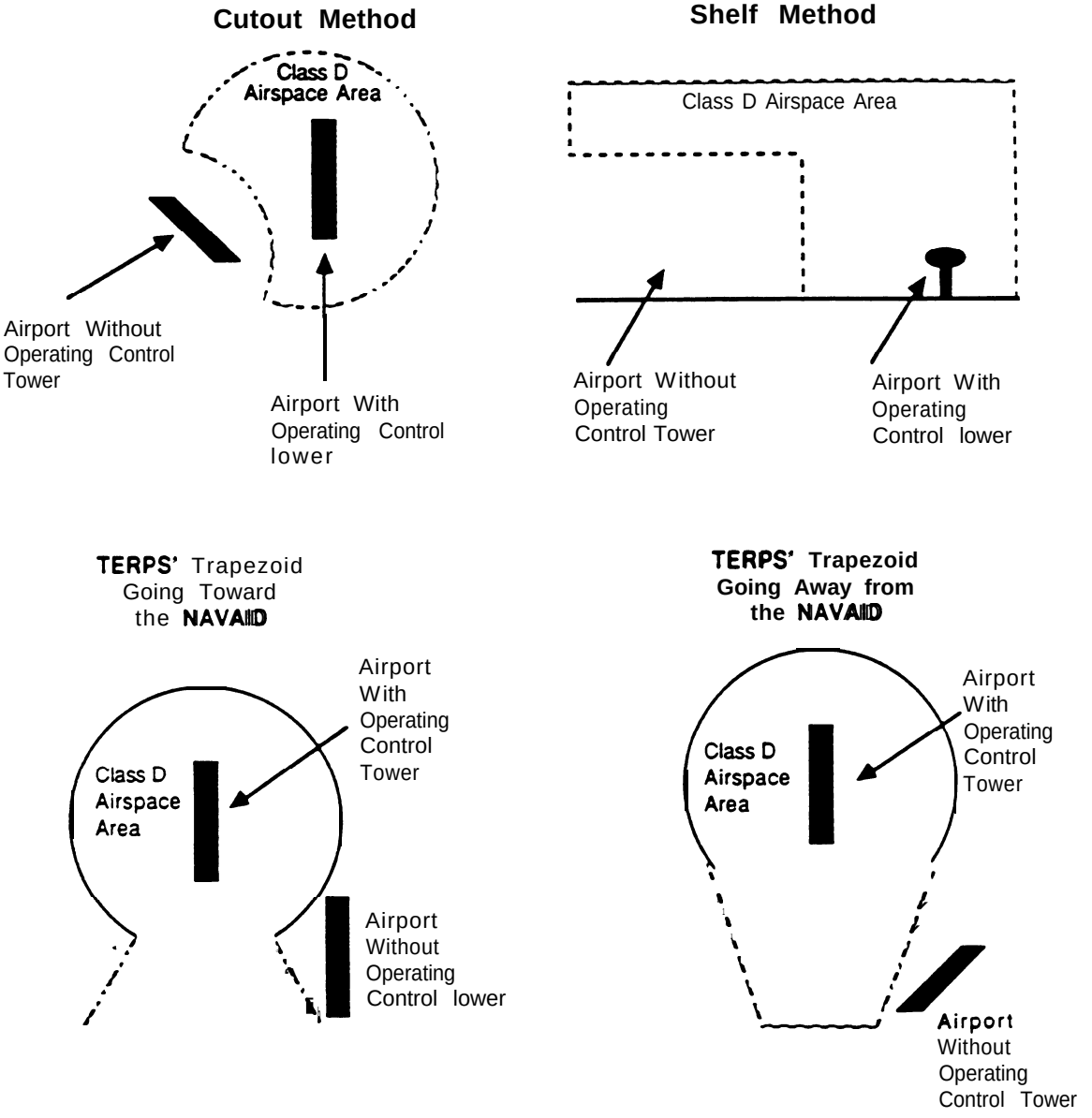

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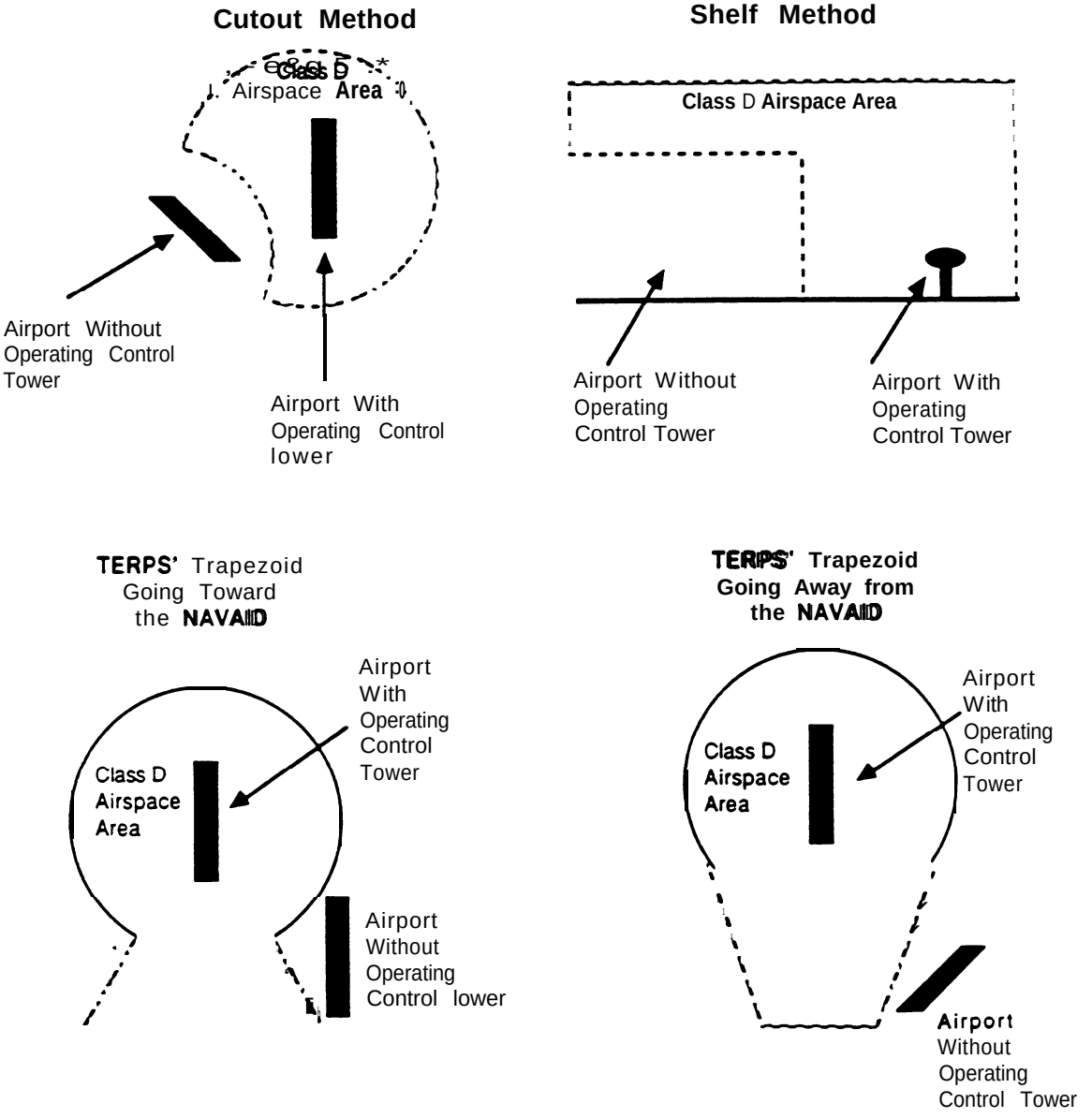

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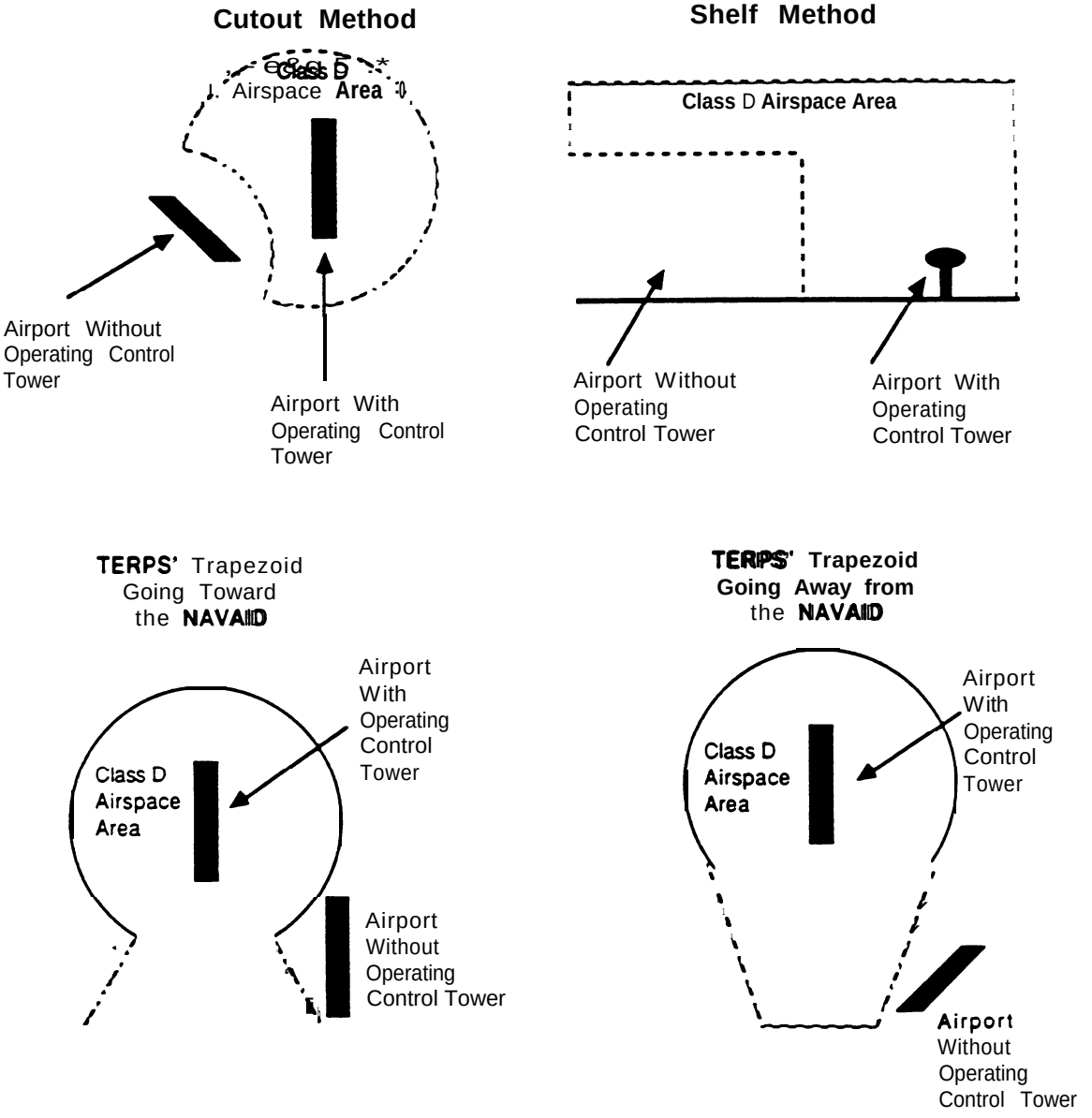

in NPRM No. 89-28 but require changes in terminology to be consistent with the amendments. Three additional subparts in Part 93 are deleted because the rules will not be necessary under airspace reclassification. The sections and subparts, with an explanation of the changes made to them, follow.

SFAR 51-1: The reference to "Terminal Control Area (TCA)" in Section 1 is replaced with "Class B airspace area." The reference to § 91.105(a) in Section 2(a) is replaced with § 91.155(a). The reference to § 91.24(b) in Section 2(b) is replaced with § 91.215(b). The phrase "meet the equipment requirements" in Section 2(b) is replaced with "be equipped as." The reference to § 91.90(a) and § 91.90 in Section 3 is replaced with § 91.131 (a) and § 91.131.

SFAR 60: The references to "terminal control area" and "airport radar service area" in Section 3a are replaced with "Class B airspace area" and "Class C airspace area." The phrase "terminal and en route airspace" in Section 3a is replaced with "class of controlled airspace."

SFAR 62: The two references to "terminal control area" in Section 1 (a) are replaced with "Class B airspace area." The references to the "Tri-Area TCA" in Section 2(24) and (25) are replaced with "Tri-Area Class B airspace area."

§ 45.22(a)(3)(i): The phrase "the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone" is replaced with "the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for the takeoff airport, or within 4.4 nautical miles of that airport if it is within Class G airspace."

§ 61.195: All references to "terminal control area" in the title and paragraphs (a), (a)(1), (a)(2), (a)(3), and (b) are replaced with "Class B airspace" or "Class B airspace area."

§ 61.195(b)(4): Both references to a "terminal control area" are replaced with "Class B airspace area."

§ 61.195(b)(3): Both references to a "terminal control area" are replaced with "Class B airspace area."

Part 75: This part is removed and reserved with all sections being transferred to a new Subpart M in existing Part 71.

§ 91.126: This section is established to include the existing requirements in § 91.127 on operations on or in the vicinity of an airport without an operating control tower.

§ 91.905: The references to §§ 91.127, 91.129, 91.130, 91.131, and 91.135 are replaced with the titles to become effective September 16, 1993, and a reference is added to § 91.126.

§ 93.1(b): The reference to § 93.113, which is to be deleted as of September 16, 1993, is deleted.

Subpart N, Part 93: This subpart on the airport traffic area at the Sabre U.S. Army Heliport (Tennessee) is removed and reserved. On September 16, 1993, this airspace will become a Class D airspace area.

Subpart O, Part 93: This subpart on the Navy airport traffic area at Jacksonville, Florida, is removed and reserved. On September 16, 1993, this airspace will become three separate but adjoining Class D airspace areas.

Subpart R, Part 93: This subpart on the Special Air Traffic Rules at El Toro, California, is removed and reserved. On September 16, 1993, this airspace will become a part of the El Toro Class C airspace area.

§ 135.205(b): The reference to "uncontrolled airspace" is replaced with "Class G airspace." The reference to "control zones" is replaced with "within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport."

§ 139.323(a): The reference to "terminal control area" is replaced with "Class B airspace area."

in NPRM No. 89-28 but require changes in terminology to be consistent with the amendments. Three additional subparts in Part 93 are deleted because the rules will not be necessary under airspace reclassification. The sections and subparts, with an explanation of the changes made to them, follow.

SFAR 51-1: The reference to "Terminal Control Area (TCA)" in Section 1 is replaced with "Class B airspace area." The reference to § 91.105(a) in Section 2(a) is replaced with § 91.155(a). The reference to § 91.24(b) in Section 2(b) is replaced with § 91.215(b). The phrase "meet the equipment requirements" in Section 2(b) is replaced with "be equipped as." The reference to § 91.90(a) and § 91.90 in Section 3 is replaced with § 91.131 (a) and § 91.131.

SFAR 60: The references to "terminal control area" and "airport radar service area" in Section 3a are replaced with "Class B airspace area" and "Class C airspace area." The phrase "terminal and en route airspace" in Section 3a is replaced with "class of controlled airspace."

SFAR 62: The two references to "terminal control area" in Section 1 (a) are replaced with "Class B airspace area." The references to the "Tri-Area TCA" in Section 2(24) and (25) are replaced with "Tri-Area Class B airspace area."

§ 45.22(a)(3)(i): The phrase "the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone" is replaced with "the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for the takeoff airport, or within 4.4 nautical miles of that airport if it is within Class G airspace."

§ 61.195: All references to "terminal control area" in the title and paragraphs (a), (a)(1), (a)(2), (a)(3), and (b) are replaced with "Class B airspace" or "Class B airspace area."

§ 61.195(b)(4): Both references to a "terminal control area" are replaced with "Class B airspace area."

§ 61.195(b)(3): Both references to a "terminal control area" are replaced with "Class B airspace area."

Part 75: This part is removed and reserved with all sections being transferred to a new Subpart M in existing Part 71.

§ 91.126: This section is established to include the existing requirements in § 91.127 on operations on or in the vicinity of an airport without an operating control tower.

§ 91.905: The references to §§ 91.127, 91.129, 91.130, 91.131, and 91.135 are replaced with the titles to become effective September 16, 1993, and a reference is added to § 91.126.

§ 93.1(b): The reference to § 93.113, which is to be deleted as of September 16, 1993, is deleted.

Subpart N, Part 93: This subpart on the airport traffic area at the Sabre U.S. Army Heliport (Tennessee) is removed and reserved. On September 16, 1993, this airspace will become a Class D airspace area.

Subpart O, Part 93: This subpart on the Navy airport traffic area at Jacksonville, Florida, is removed and reserved. On September 16, 1993, this airspace will become three separate but adjoining Class D airspace areas.

Subpart R, Part 93: This subpart on the Special Air Traffic Rules at El Toro, California, is removed and reserved. On September 16, 1993, this airspace will become a part of the El Toro Class C airspace area.

§ 135.205(b): The reference to "uncontrolled airspace" is replaced with "Class G airspace." The reference to "control zones" is replaced with "within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport."

§ 139.323(a): The reference to "terminal control area" is replaced with "Class B airspace area."

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SFAR 60: The references to "terminal control area" and "airport radar service area" in Section 3a are replaced with "Class B airspace area" and "Class C airspace area." The phrase "terminal and en route airspace" in Section 3a is replaced with "class of controlled airspace."

SFAR 62: The two references to "terminal control area" in Section 1 (a) are replaced with "Class B airspace area." The references to the "Tri-Area TCA" in Section 2(24) and (25) are replaced with "Tri-Area Class B airspace area."

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§ 61.195(b)(4): Both references to a "terminal control area" are replaced with "Class B airspace area."

§ 61.195(b)(3): Both references to a "terminal control area" are replaced with "Class B airspace area."

Part 75: This part is removed and reserved with all sections being transferred to a new Subpart M in existing Part 71.

§ 91.126: This section is established to include the existing requirements in § 91.127 on operations on or in the vicinity of an airport without an operating control tower.

§ 91.905: The references to §§ 91.127, 91.129, 91.130, 91.131, and 91.135 are replaced with the titles to become effective September 16, 1993, and a reference is added to § 91.126.

§ 93.1(b): The reference to § 93.113, which is to be deleted as of September 16, 1993, is deleted.

Subpart N, Part 93: This subpart on the airport traffic area at the Sabre U.S. Army Heliport (Tennessee) is removed and reserved. On September 16, 1993, this airspace will become a Class D airspace area.

Subpart O, Part 93: This subpart on the Navy airport traffic area at Jacksonville, Florida, is removed and reserved. On September 16, 1993, this airspace will become three separate but adjoining Class D airspace areas.

Subpart R, Part 93: This subpart on the Special Air Traffic Rules at El Toro, California, is removed and reserved. On September 16, 1993, this airspace will become a part of the El Toro Class C airspace area.

§ 135.205(b): The reference to "uncontrolled airspace" is replaced with "Class G airspace." The reference to "control zones" is replaced with "within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport."

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SFAR 60: The references to "terminal control area" and "airport radar service area" in Section 3a are replaced with "Class B airspace area" and "Class C airspace area." The phrase "terminal and en route airspace" in Section 3a is replaced with "class of controlled airspace."

SFAR 62: The two references to "terminal control area" in Section 1 (a) are replaced with "Class B airspace area." The references to the "Tri-Area TCA" in Section 2(24) and (25) are replaced with "Tri-Area Class B airspace area."

§ 45.22(a)(3)(i): The phrase "the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone" is replaced with "the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for the takeoff airport, or within 4.4 nautical miles of that airport if it is within Class G airspace."

§ 61.195: All references to "terminal control area" in the title and paragraphs (a), (a)(1), (a)(2), (a)(3), and (b) are replaced with "Class B airspace" or "Class B airspace area."

§ 61.195(b)(4): Both references to a "terminal control area" are replaced with "Class B airspace area."

§ 61.195(b)(3): Both references to a "terminal control area" are replaced with "Class B airspace area."

Part 75: This part is removed and reserved with all sections being transferred to a new Subpart M in existing Part 71.

§ 91.126: This section is established to include the existing requirements in § 91.127 on operations on or in the vicinity of an airport without an operating control tower.

§ 91.905: The references to §§ 91.127, 91.129, 91.130, 91.131, and 91.135 are replaced with the titles to become effective September 16, 1993, and a reference is added to § 91.126.

§ 93.1(b): The reference to § 93.113, which is to be deleted as of September 16, 1993, is deleted.

Subpart N, Part 93: This subpart on the airport traffic area at the Sabre U.S. Army Heliport (Tennessee) is removed and reserved. On September 16, 1993, this airspace will become a Class D airspace area.

Subpart O, Part 93: This subpart on the Navy airport traffic area at Jacksonville, Florida, is removed and reserved. On September 16, 1993, this airspace will become three separate but adjoining Class D airspace areas.

Subpart R, Part 93: This subpart on the Special Air Traffic Rules at El Toro, California, is removed and reserved. On September 16, 1993, this airspace will become a part of the El Toro Class C airspace area.

§ 135.205(b): The reference to "uncontrolled airspace" is replaced with "Class G airspace." The reference to "control zones" is replaced with "within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport."

§ 139.323(a): The reference to "terminal control area" is replaced with "Class B airspace area."

a substantial number of small entities." The small entities which could be potentially affected by the implementation of this notice are pilot schools.

Training materials used in the courses offered by the pilot schools will have to be modified to reflect the changes of the airspace reclassification. However, pilot schools will not incur any cost impact since the documents they use will be updated as a normal course of business. Thus, there will be no cost impact to those pilot schools classified as small entities. Therefore, this rule will not have a significant cost impact on a substantial number of small entities.

FEDERALISM IMPLICATIONS

The amendments in this final rule will not have substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these amendments will not -have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1980 (Pub L. 96-511), there are no requirements for information collection associated with this rule.

CONCLUSION

For reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation Determination and the International Trade Impact Analysis, the FAA has determined that these amendments do not qualify as a major rule under Executive Order 12291. In addition, the FAA certifies that these amendments will not have a significant economic effect on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. These amendments are considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of these amendments, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in its entirety in the regulatory docket. A copy may be obtained by contacting the person identified under ***"FOR FURTHER INFORMATION CONTACT."***

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Subpart C-Operating Rules

§ 137.29 General.

(a) Except as provided in paragraphs (d) and (e) of this section, this subpart prescribes rules that apply to persons and aircraft used in agricultural aircraft operations conducted under this part.

(b) [Reserved]

(c) The holder of an agricultural aircraft operator certificate may deviate from the provisions of part 91 of this chapter without a certificate of waiver, as authorized in this subpart for dispensing operations, when conducting nondispensing aerial work operations related to agriculture, horticulture, or forest preservation in accordance with the operating rules of this subpart.

(d) Sections 137.31 through 137.35, 137.41, and 137.53 through 137.59 do not apply to persons and aircraft used in agricultural aircraft operations conducted with public aircraft.

(e) Sections 137.31 through 137.35, 137.39, 137.41, 137.51 through 137.59, and Subpart D do not apply to persons and rotorcraft used in agricultural aircraft operations conducted by a person holding a certificate under Part 133 of this chapter and involving only the dispensing of water on forest fires by rotorcraft external-load means. However, the operation shall be conducted in accordance with—

(1) The rules of Part 133 of this chapter governing rotorcraft external-load operations; and

(2) The operating rules of this subpart contained in §§ 137.29, 137.37, and 137.43 through 137.49.

(Amdt. 137–3, Eff. 8/1/68); (Amdt. 137–6, Eff. 09/20/76)

§ 137.31 Aircraft requirements.

No person may operate an aircraft unless that aircraft-

(a) Meets the requirements of § 137.19(d); and

(b) Is equipped with a suitable and properly installed shoulder harness for use by each pilot.

§ 137.33 Carrying of certificate.

(a) No person may operate an aircraft unless a facsimile of the agricultural aircraft operator certificate, under which the operation is conducted, is carried on that aircraft. The facsimile shall be presented for inspection upon the request of the Administrator or any Federal, State, or local law enforcement officer.

(b) Notwithstanding Part 91 of this chapter, the registration and airworthiness certificates issued for the aircraft need not be carried in the aircraft. However, when those certificates are not carried in the aircraft they shall be kept available for inspection at the base from which the dispensing operation is conducted.

(Amdt. 137–3, Eff. 8/1/68)

§ 137.35 Limitations on private agricultural aircraft operator.

No person may conduct an agricultural aircraft operation under the authority of a private agricultural aircraft operator certificate-

(a) For compensation or hire;

(b) Over a congested area; or

(c) Over any property unless he is the owner or lessee of the property, or has ownership or other property interest in the crop located on that property.

§ 137.37 Manner of dispensing.

No persons may dispense, or cause to be dispensed, from an aircraft, any material or substance in a manner that creates a hazard to persons or property on the surface.

(Amdt. 137–3, Eff. 8/1/68)

§ 137.39 Economic poison dispensing.

(a) Except as provided in paragraph (b) of this section, no person may dispense or cause to be dispensed from an aircraft, any economic poison that is registered with the U.S. Department of Agri-

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(b) [Reserved]

(c) The holder of an agricultural aircraft operator certificate may deviate from the provisions of part 91 of this chapter without a certificate of waiver, as authorized in this subpart for dispensing operations, when conducting nondispensing aerial work operations related to agriculture, horticulture, or forest preservation in accordance with the operating rules of this subpart.

(d) Sections 137.31 through 137.35, 137.41, and 137.53 through 137.59 do not apply to persons and aircraft used in agricultural aircraft operations conducted with public aircraft.

(e) Sections 137.31 through 137.35, 137.39, 137.41, 137.51 through 137.59, and Subpart D do not apply to persons and rotorcraft used in agricultural aircraft operations conducted by a person holding a certificate under Part 133 of this chapter and involving only the dispensing of water on forest fires by rotorcraft external-load means. However, the operation shall be conducted in accordance with—

(1) The rules of Part 133 of this chapter governing rotorcraft external-load operations; and

(2) The operating rules of this subpart contained in §§ 137.29, 137.37, and 137.43 through 137.49.

(Amdt. 137–3, Eff. 8/1/68); (Amdt. 137–6, Eff. 09/20/76)

§ 137.31 Aircraft requirements.

No person may operate an aircraft unless that aircraft-

(a) Meets the requirements of § 137.19(d); and

(b) Is equipped with a suitable and properly installed shoulder harness for use by each pilot.

§ 137.33 Carrying of certificate.

(a) No person may operate an aircraft unless a facsimile of the agricultural aircraft operator certificate, under which the operation is conducted, is carried on that aircraft. The facsimile shall be presented for inspection upon the request of the Administrator or any Federal, State, or local law enforcement officer.

(b) Notwithstanding Part 91 of this chapter, the registration and airworthiness certificates issued for the aircraft need not be carried in the aircraft. However, when those certificates are not carried in the aircraft they shall be kept available for inspection at the base from which the dispensing operation is conducted.

(Amdt. 137–3, Eff. 8/1/68)

§ 137.35 Limitations on private agricultural aircraft operator.

No person may conduct an agricultural aircraft operation under the authority of a private agricultural aircraft operator certificate-

(a) For compensation or hire;

(b) Over a congested area; or

(c) Over any property unless he is the owner or lessee of the property, or has ownership or other property interest in the crop located on that property.

§ 137.37 Manner of dispensing.

No persons may dispense, or cause to be dispensed, from an aircraft, any material or substance in a manner that creates a hazard to persons or property on the surface.

(Amdt. 137–3, Eff. 8/1/68)

§ 137.39 Economic poison dispensing.

(a) Except as provided in paragraph (b) of this section, no person may dispense or cause to be dispensed from an aircraft, any economic poison that is registered with the U.S. Department of Agri-

Subpart D-Records and Reports

§ 137.71 Records: Commercial agricultural aircraft operator.

(a) Each holder of a commercial agricultural aircraft operator certificate shall maintain and keep current, at the home base of operations designated in his application, the following records:

(1) The name and address of each person for whom agricultural aircraft services were provided;

(2) The date of the service;

(3) The name and quantity of the material dispensed for each operation conducted; and

(4) The name, address, and certificate number of each pilot used in agricultural aircraft operations and the date that pilot met the knowledge and skill requirements of § 137.19(e).

(b) The records required by this section must be kept at least 12 months and made available for inspection by the Administrator upon request.

§ 137.75 Change of address.

Each holder of an agricultural aircraft operator certificate shall notify the FAA in writing in advance of any change in the address of his home base of operations.

§ 137.77 Termination of operations.

Whenever a person holding an agricultural aircraft operator certificate ceases operations under this part, he shall surrender that certificate to the FAA Flight Standards District Office last having jurisdiction over his operation.

(Amdt. 137–13, Eff. 10/25/89)

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